



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,935	11/01/2001	Robert Eric Montgomery	04163-00120	9955

7590

03/18/2003

John P. Iwanicki
BANNER & WITCOFF, LTD.
28th Floor
28 State Street
Boston, MA 02109

EXAMINER

ROSE, SHEP K

ART UNIT	PAPER NUMBER
----------	--------------

1614

DATE MAILED: 03/18/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/039935

Applicant(s)
MONTBOMERY

Examiner
SPBP Ross

Group Art Unit
1614

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on Feb 10 2003
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 42270 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☒ Other _____

Office Action Summary

The reply filed on Feb 10 2003 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): the USPTO Examiner has been tasked to conduct obvious double patenting rejections by any named applicant, and needs the cooperation of applicant, to request copies of all of his claims, in all of his copending applications, and patents, if they claim any apparatus, device, kits, or other means, that would be material, relevant and important to the issues of patentability, for the purpose of investigation of the issue of obviousness-type double patenting of dual ("first tube" and "second tube") tooth bleaching equipment as in newly presented claims 42 to 70.

In this respect, the Feb, 10, 2003 amendment is objected to for naming applicant, who signed the oath herein as Robert Eric Montgomery (full name of inventor), Robert E. Montgomery, as "R. Eric Montgomery" as signed in copending 10/050,196 since the only tool the USPTO patent examiner has is an Inventor name search for LAST NAME and FIRST NAME.

There are many entries for Montgomery, Robert and for Montgomery, Eric in the Inventor name search, (there is another R.E. Montgomery active in this area), and in both name search fields, some titles seems to be the applicants' and pertinent. The claims of record have been rejected for obviousness-type double patenting on claims in 10/050,196, however, it has come to the undersigned USPTO examiner's attention that this applicant has multiple patent attorneys and possibly more than one assignee, so no one patent attorney may have the complete listing of this applicants claims relevant to

the obviousness-type double patenting issue, which requires applicant's assistance which is now respectfully requested.

See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shep Rose whose telephone number is (703) 308-4609. The examiner can normally be reached on Monday, Tuesday, and Thursday 7:30am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Seidel can be reached on (703) 308-4725. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.


SHEP K. ROSE
PRIMARY EXAMINER

Rose/tgd
March 14, 2003

Shep Rose
Senior Primary Examiner
Art Unit 1614

Art Unit: 1614

The reply filed on Feb 10 2003 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): the USPTO Examiner has been tasked to conduct obvious double patenting rejections by any named applicant, and needs the cooperation of applicant, to request copies of all of his claims, in all of his copending applications, and patents, if they claim any apparatus, device, kits, or other means, that would be material, relevant and important to the issues of patentability, for the purpose of investigation of the issue of obviousness-type double patenting of dual ("first tube" and "second tube") tooth bleaching equipment as in newly presented claims 42 to 70.

In this respect, the Feb, 10, 2003 amendment is objected to for naming applicant, who signed the oath as ^{herein} Robert Eric Montgomery (full name of inventor), Robert E. Montgomery, as "R. Eric Montgomery" ^{as signed in copending 10/050196} since the only tool the USPTO patent examiner has is an Inventor name search for LAST NAME and FIRST NAME.

There are many entries for Montgomery, Robert ^{and for Montgomery, Eric} in the Inventor name search, ^{in both name search fields} (there is another R.E. Montgomery active in this area) and search, some titles seems to the applicants' and pertinent. The claims of record have been rejected for obviousness-type double patenting on claims in 10/050,196, however, it has come to the undersigned USPTO examiner's attention that this applicant has multiple patent attorneys and possibly more than one assignee, so no one patent attorney may have the complete listing of this applicants claims relevant to the obviousness-type double patenting issue, which requires applicant's assistance which is now respectfully requested.

Art Unit: 1614

See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shep Rose whose telephone number is (703) 308-4609. The examiner can normally be reached on Monday, Tuesday, and Thursday 7:30am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Seidel can be reached on (703) 308-4725. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Rose/tgd
March 14, 2003

Shep Rose
Senior Primary Examiner
Art Unit 1614

Art Unit: 1614

The reply filed on Feb 10 2003 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): the USPTO Examiner has been tasked to conduct obvious double patenting rejections by any named applicant, and needs the cooperation of applicant, to request copies of all of his claims, in all of his copending applications, and patents, if they claim any apparatus, device, kits, or other means, that would be material, relevant and important to the issues of patentability, for the purpose of investigation of the issue of obviousness-type double patenting of dual ("first tube" and "second tube") tooth bleaching equipment as in newly presented claims 42 to 70.

In this respect, the Feb, 10, 2003 amendment is objected to for naming applicant, who signed the oath as Robert Eric Montgomery (full name of inventor), Robert E. Montgomery, as "R. Eric Montgomery" since the only tool the USPTO patent examiner has is an Inventor name search for LAST NAME and FIRST NAME.

There are many entries for Montgomery, Robert in the Inventor name search, there is another R.E. Montgomery active in this area, and search, some titles seems to the applicants' and pertinent. The claims of record have been rejected for obviousness-type double patenting on claims in 10/050,196, however, it has come to the undersigned USPTO examiner's attention that this applicant has multiple patent attorneys and possibly more than one assignee, so no one patent attorney may have the complete listing of this applicants claims relevant to the obviousness-type double patenting issue, which requires applicant's assistance which is now respectfully requested.

Art Unit: 1614

See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shep Rose whose telephone number is (703) 308-4609. The examiner can normally be reached on Monday, Tuesday, and Thursday 7:30am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Seidel can be reached on (703) 308-4725. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Rose/tgd
March 14, 2003

Shep Rose
Senior Primary Examiner
Art Unit 1614